



UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

Markus H. Meier
Health Care Division
Bureau of Competition

May 22, 2020

MEMO ENDORSED

Via ECF

The Honorable Denise Cote
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1910
New York, NY 10007

Re: FTC et al. v. Vyera Pharmaceuticals, LLC et al., 20-cv-00706 (DLC)

Dear Judge Cote:

In accordance with the Court's March 24, 2020 Scheduling Order (Dkt. No. 74), the parties are filing three proposed protocols governing discovery in this case: (1) Protocol for Third-Party and Foreign Discovery (3/24/20 Order, ¶¶ 8-9); (2) Protocol for Depositions (3/24/20 Order, ¶ 10); and (3) Stipulated Protocol and Schedule for Expert Discovery (3/24/20 Order, ¶ 11).

The parties largely agree on these protocols. The FTC submits this letter on behalf of all Plaintiffs in support of their proposal on three issues that remain in dispute.

1. Third-Party and Foreign Discovery Protocol

- Deadline for Requesting International Assistance (¶ 7(a)): The parties intend to pursue foreign discovery in this case and recognize that there is substantial uncertainty about the length of time required by a foreign jurisdiction to process discovery requests. To facilitate the timely completion of foreign discovery, Plaintiffs propose that the Court set a deadline of July 31, 2020, by which the parties must submit to this Court the Letters of Request for International Assistance that begin the potentially lengthy foreign discovery process. Defendants object to any interim deadline for submitting such Letters of Request.

2. Deposition Protocol

- Deposition hours (¶ 4): The parties do not agree on the number of deposition hours per side. Plaintiffs propose that each side be permitted up to 140 hours for depositions. Defendants seek up to 175 hours per side.

3. Fact Discovery Deadline


- In its Scheduling Order, the Court asked for a “schedule” for “third-party discovery,” a “schedule for conducting foreign discovery,” and a “schedule for the taking of fact depositions.” (3/24/20 Order, ¶¶ 8-10.) We understand that Defendants are planning to seek a stay of discovery until resolution of their motions to dismiss. Plaintiffs intend to oppose this stay. Accordingly, we have not been able to reach agreement on a discovery schedule, and Plaintiffs propose that the Court set the fact discovery deadline as **January 29, 2021**.

Sincerely,

/s/ Markus H. Meier

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Fact discovery shall end on **February 26, 2021**.
5.26.2020.



DENISE COTE
United States District Judge

cc: All counsel of record (via ECF)